

**State Court Administrative Office  
Trial Court Services  
Problem-Solving Courts**

**Michigan Association of Treatment  
Court Professionals**

**Mental Health Court Advisory  
Committee**



# **Adult Mental Health Court Required Best Practices**

**September 2018**



## ***Introduction***

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The use of best practices have been shown by empirical research to produce better outcomes than other practices, and their use results in higher-quality programs.

In order for a program to become a certified mental health court under MCL 600.1901, it must comply with all of the standards and required best practices in the [\*Adult Mental Health Court Standards, Best Practices, and Promising Practices\*](#) manual. This document contains all of the required best practice.

# ***Chapter 1: Roles and Responsibilities of the Mental Health Court Treatment Court Judge***

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## **1. GENERAL**

- i. Participants ordinarily appear before the same judge throughout their enrollment in the mental health court.
- ii. The mental health court judge attends current training events on legal and constitutional issues in mental health courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. Attendance at annual training conferences and workshops ensures contemporary knowledge about advances in the mental health court field.

## **2. STAFFING MEETINGS AND REVIEW HEARINGS**

- i. The judge regularly attends staffing meetings during which the mental health court team reviews each participant's progress and discusses potential consequences for performance.
- ii. The judge considers the perspectives of all team members before making final decisions that affect participants' welfare or liberty interests. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.
- iii. Participants appear before the judge for status hearings no less frequently than every two weeks during the first phase of the program. The frequency of status review hearings may be reduced gradually after participants have initiated abstinence from alcohol and illicit drugs and are regularly engaged in treatment. Status review hearings are scheduled no less frequently than every four weeks until participants are in the last phase of the program.

## ***Chapter 2: Participant Supervision and Compliance***

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### **2. FREQUENCY**

- i. Participants appear before the judge for status hearings at least once every two weeks during the first phase of the program. The frequency of status review hearings may be reduced gradually after participants have initiated abstinence from alcohol and illicit drugs and are regularly engaged in treatment. Status review hearings are scheduled at least once every four weeks until participants are in the last phase of the program.

### **4. INCENTIVES AND SANCTIONS**

- i. The mental health court has a range of sanctions of varying magnitudes that may be administered in response to program infractions.
- ii. Sanctions are imposed as quickly as possible after noncompliant behavior. Mental health courts do not wait for the next review hearing to impose a sanction if the behavior can be addressed more immediately.

## *Chapter 3: Confidentiality*

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### **1. CONFIDENTIALITY**

- i. Mental health court planning teams are familiar with relevant federal and state laws and regulations in order to develop appropriate policies and procedures.
- ii. Confidential records are protected after consent expires or is revoked.
- iii. Treatment courts adopt written procedures and/or policies, which regulate and control access to and use of written and electronic confidential records. Written procedures include requests for access to confidential information by the public, attorneys, or any interested party outside the treatment court team.
- iv. Treatment courts establish a memorandum of understanding (MOU) on confidentiality and have all team members and replacement team members sign and agree to follow confidentiality procedures.
- v. Electronic data that is subject to confidentiality standards must be protected by security walls and password-protected. Access shall be limited and disclosure/re-disclosure shall be subject to approval by the treatment court judge and team.
- vi. Pre-court staffing meetings may be closed to participants and the public. If open, compliance with consent requirements must be obtained.

## ***Chapter 4: Due Process***

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### **3. 1ST AMENDMENT**

- i. If it is appropriate and beneficial to order 12-step self-help programs, offenders who object to the deity-based 12-step programs cannot be ordered to attend them. In those instances, secular alternatives are made available.

### **6. SANCTIONS AND TERMINATION**

- i. Mental health court termination hearings and sanction hearings involving a liberty interest and a contest on the facts require procedural protections under due process and under MCR 6.445, including, but not limited to, the following:
  - The court must ensure that the participant receives written notice of the alleged violation,
  - The court must advise the participant that the participant has a right to contest the charge at a hearing, and
  - The court must advise the participant that the participant is entitled to a lawyer's assistance at the hearing and at all subsequent court proceedings, and that the court will appoint a lawyer at public expense if the participant wants one and is financially unable to retain one.

## ***Chapter 5: The Mental Health Court Team***

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### **1. TEAM COMPOSITION**

- i. A dedicated multidisciplinary team of professionals manages the day-to-day operations of the mental health court, including reviewing participant progress during pre-court staff meetings and status hearings, contributing observations and recommendations within the team members' respective areas of expertise, and overseeing the delivery of legal, treatment, and supervision services.

### **2. STAFFING MEETINGS AND REVIEW HEARINGS**

- i. Team members consistently attend pre-court staff meetings to review participant progress, determine appropriate actions to improve outcomes, and prepare for status hearings in court.
- ii. Team members attend status hearings on a consistent basis. During the status hearings, team members contribute relevant information or recommendations when requested by the judge or as necessary to improve outcomes or protect participants' legal rights.

### **3. COMMUNICATION AND DECISION MAKING**

- i. Team members share information as necessary to appraise participants' progress in treatment and compliance with the conditions of mental health court. Team members and the agency they represent execute memoranda of understanding specifying what information will be shared among team members.
- ii. Team members contribute relevant insights, observations, and recommendations based on their professional knowledge, training, and experience. The judge considers all team members' perspectives before making decisions that affect participants' welfare or liberty interests and explain the rationale for such decisions to team members and participants.

## ***Chapter 6: Mental Health Court Population and Admission***

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### **3. CLINICAL MENTAL HEALTH AND SUBSTANCE USE ASSESSMENTS**

- i. Assess clients for the correct program through the use of both mental health and addiction assessment tools.
- i. Clinical assessments use validated tools.

### **4. RISK AND NEED ASSESSMENT**

- i. The mental health court program accepts participants that are both high-risk and high-need.
- ii. Use a standardized risk and needs assessment to identify the expected likelihood of a particular outcome (e.g., recidivism) over a specified period of time (e.g., one year) for an individual.

### **6. ADMISSION FACTORS**

- i. Use only objective criteria when determining suitability for mental health court.



## ***Chapter 7: Drug and Alcohol Testing***

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### **2. RANDOMIZATION**

- i. The probability of being tested on weekends and holidays is the same as other days.

### **3. FREQUENCY AND BREADTH OF TESTING**

- i. Test specimens are examined for all unauthorized substances of abuse that are suspected to be used by mental health court participants. Randomly selected specimens are tested periodically for a broader range of substances to detect new substances of abuse that might be emerging in the mental health court population.

### **4. SCIENTIFICALLY VALID DRUG TESTING METHODS**

- i. A mental health court uses scientifically valid and reliable testing procedures.
- ii. If a participant denies substance use in response to a positive screening test, a portion of the same specimen is subjected to confirmatory analysis using an instrumented test, such as GC/MS or LC/MS. Unless a participant admits to using the drug identified by the screening procedure, confirmation of presumptive positive tests is mandatory.
- iii. Confirmatory tests are not withheld due to the participant's inability to pay.
- iv. Metabolite levels are not used as evidence of new substance use or changes in participants' substance use patterns.
- v. Test specimens are examined routinely for evidence of dilution and adulteration.

### **5. WITNESSED COLLECTION**

- i. Collection of test specimens is witnessed directly by a staff person who has been trained to prevent tampering and substitution of fraudulent specimens.

### **6. CHAIN OF CUSTODY AND RESULTS**

- i. A chain-of-custody form is completed once a urine sample has been collected. This form ensures the identity and integrity of the sample through transport, testing and reporting of results.

## ***Chapter 8: Treatment***

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### **1. GENERAL AND DEFINITION OF MENTAL HEALTH COURTS**

- i. A clinically trained treatment representative is a core member of the mental health court team and regularly attends team meetings and status hearings.

### **2. TREATMENT ENTRY**

- i. Mental health courts link participants to treatment as soon as possible.

### **4. EVIDENCE-BASED MODELS OF TREATMENT**

- i. Treatment providers use evidence-based models and administer treatments that are documented in manuals and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system.

### **5. TREATMENT DURATION**

- i. Participants receive a sufficient dosage and duration of treatment to address their needs.

## ***Chapter 9: Education***

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### **1. GENERAL**

- i. Team members participate in continuing education workshops to gain up-to-date knowledge about best practices on mental health court topics.
- ii. New team members complete a formal training or orientation as soon as practical after assuming their position.
- iii. The mental health court judge attends current training events on legal and constitutional issues in mental health courts, judicial ethics, evidence-based substance abuse and mental health treatment, behavior modification, and community supervision. Attendance at annual training conferences and workshops ensures contemporary knowledge about advances in the mental health court field.
- iv. Mental health professionals on the mental health court team are familiar with legal terminology and the criminal justice system, and criminal justice personnel on the team are familiar with treatment practices and protocols.

## ***Chapter 10: Program Evaluation***

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### **2. EVALUATION AND PROGRAM MODIFICATION**

- i. Use data to monitor program operations on a consistent basis and make program changes where necessary.